

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Jesse Rivera,)	
)	
Plaintiff,)	Civil Action No.: 2:04-21770-CWH
)	
vs.)	
)	
David Breland and Rudolph Breland,)	ORDER
)	
Defendants.)	
_____)	

On August 4, 2004, the plaintiff commenced this pro se action against the defendants claiming control of his deceased daughter's remains located in Hattiesburg, Mississippi. On September 10, 2004, the defendants moved to dismiss. On September 15, 2004, the plaintiff moved for summary judgment. On September 17, 2004, a Roseboro order was issued advising the defendants of summary judgment dismissal procedure. On November 30, 2004, the defendants moved for summary judgment and for sanctions. On December 1, 2004, a Roseboro order was issued advising the plaintiff of summary judgment dismissal procedure. All motions are opposed.

On July 11, 2005, Magistrate Judge George C. Kosko issued a report analyzing the issues and recommending that the Court (1) grant the defendants' motions to dismiss and for summary judgment, (2) deny the defendants' motion for sanctions, (3) deny the plaintiff's motion for summary judgment and (4) dismiss this action. On July 26, 2005, the plaintiff filed an objection to the report and recommendation. This matter is now before the Court for disposition.


The Magistrate Judge correctly found that *res judicata* dictates that this action be

dismissed. Before filing this action, the plaintiff initiated the same exact cause of action in Mississippi state court. After the plaintiff lost, he appealed to the Mississippi Supreme Court, which affirmed on June 16, 2005. In order to avoid endless litigation in different forums on the same cause of action, “a party’s state court judgment has the same preclusive effect in federal court that the judgment would have in state court.” Sea Cabin on the Ocean IV Homeowners Assn. v. City of North Myrtle Beach, 828 F. Supp. 1241, 1248 (D.S.C. 1993).

The plaintiff’s objection to the report and recommendation does not address this important issue of *res judicata*, but merely objects to one of the defendant’s refusal to accept service on several dates.

Accordingly, the Court adopts the report and recommendation. The Court therefore (1) grants the defendants’ motions to dismiss and for summary judgment, (2) denies the defendants’ motion for sanctions, (3) denies the plaintiff’s motion for summary judgment and (4) dismisses this action.

AND IT IS SO ORDERED.



**C. WESTON HOUCK
UNITED STATES DISTRICT JUDGE**

August 2, 2005
Charleston, South Carolina